



California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger
Governor

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Ms. Kelly Schmoker
California Department of Transportation
100 South Main Street
Los Angeles CA 90012

WATER QUALITY CERTIFICATION FOR PROPOSED STATE ROUTE 33, POST MILE 37.5 SLOPE REPAIR PROJECT (Corps' Project No. 2006-01570-VN), SESPE CREEK, LOS PADRES NATIONAL FOREST, VENTURA COUNTY (File No. 06-157)

Dear Ms. Schmoker:

Board staff has reviewed your request on behalf of Caltrans (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on November 15, 2006.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Section 401 Program, at (213) 576-6759.

[Original Signed By]
Jonathan S. Bishop
Executive Officer

December 20, 2006
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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ATTACHMENT A

Project Information File No. 06-157

1. Applicant: California Department of Transportation
100 South Main Street
Los Angeles CA 90012

Phone: (213) 897-2984 Fax: (213) 897-0685
2. Applicant's Agent: Kelly Schmoker
3. Project Name: State Route 33, Post Mile 37.5 Slope Repair
4. Project Location: Los Padres National Forest, Ventura County

Longitude: 119° 20' 50"; Latitude: 34° 36' 00"
Longitude: 119° 20' 45"; Latitude: 34° 36' 00"
5. Type of Project: Slope repair along SR 33
6. Project Purpose: The purpose of the proposed project is to repair a slope along State Route 33, at post mile 37.5 which was washed out during the high flows of the 2005 rainy season.
7. Project Description: The Applicant has proposed to rebuild a failed slope to pre-storm contours. In addition to placing fill material along the slope to rebuild the bank, ungrouted rock will be placed on the slope utilizing ¾- to 1- ton boulders on the lower eight (8) feet of the slope. This should alleviate any future wash-outs at this location. The duration of the work is expected to be thirty (30) days.

An earthen access ramp will need to be created to give equipment access to the toe of the channel slope. The ramp will be constructed so equipment will enter from the west side, and will be wide enough to accommodate equipment safely. After the slope is constructed, this access ramp will be scaled back in size and partially removed so it is not extending into the channel beyond the necessary toe of slope. The Applicant proposes to install hay bales and ESA fencing parallel to the channel prior to construction to

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both limit the impacts to outside the flowing channel as well as act as a best management practice to prevent sediment from entering the creek. The Applicant proposes to use locally collected soil from other on-going projects a fill for repairing the slope, which has washed away. Staging areas will be limited to already disturbed areas along the shoulder of Route 33. Equipment that will be used to perform the work includes: excavators, rollers and loaders.

The total area of permanent impact is estimated at 0.26 acres waters of the U.S. (non-wetland), and 0.15 acres upland. The temporary staging area is estimated at 0.5-acre of upland.

The Applicant is proposing revegetation of the site with a combination of living cuttings, planting, and seeding.

An additional alternative was looked at by the Applicants maintenance staff, which consisted of realigning Route 33 away from the Sespe Creek into the opposite shoulder. Upon analysis of the alternative, it was determined that the bridge at Godwin Creek would require the realigned road to make a sharp curve to meet up with the path of the existing bridge. It was determined to be a safety hazard, as the curve would not meet acceptable standards for safe roadways at the posted speed limit.

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| 8. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP Nos. 3 & 13 (Permit No. 2006-01570-VN) |
| 9. Other Required
Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement |
| 10. California
Environmental Quality
Act Compliance: | The California Department of Transportation (Caltrans) determined that the project is categorically exempt on July 28, 2006. The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 (Replacement or Reconstruction). |
| 11. Receiving Water: | Sespe Creek (Hydrologic Unit No. 403.32) |

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12. Designated Beneficial Uses: MUN*, IND, PROC, AGR, GWR, REC-1, REC-2, WARM, COLD, WILD, BIOL, RARE, MIGR, SPWN, WET
13. Impacted Waters of the United States: *Conditional beneficial use
Non-wetland waters (streambed): 0.07 temporary and 0.26 permanent acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant:
- Routine maintenance on State Route 33 including repaving and striping, clearing falling rock and debris, pipe replacement project, debris basin cleanout, brush clearing and removal of road right-of-way.
 - PM55.8: Project work includes stabilizing and rebuilding the slope and portion of Route 33 that failed during the 2005 storm season.
 - PM 45.5: Project work includes reconstruction of a slope and portion of Route 33 that is sliding along a slump aggravated by the 2005 storm season.
 - Repaving of Route 33 (existing road only)
 - PM 22.5: Repair of a slope damaged by the 2005 storm season. Repairs may include installing a vertical soldier pile wall along the slope for roughly 100 feet.
16. Avoidance/Minimization Activities:
- The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- All work will be conducted outside of the rain season. If rain is forecasted outside of the rainy season, work shall stop and BMPs shall be implemented prior to the rain to secure the site.
 - No fill material will be dumped on the shoulder areas of the roadway where the potential exists for it runoff into Sespe Creek or any tributaries. Only designed disposal sites will be used, no temporary storage of material will be allowed on the roadsides as this is a Scenic Highway.
 - Best storm water pollution control management practices will be

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implemented to protect the Construction Zone from local flooding and to prevent contaminated runoff or prevent excessive silt and other erosion from entering culvert inlets. Sandbag barriers, sediment traps, and other erosion control measures may be provided.

- Temporary staging and stockpile locations (approved sites only) shall have appropriate BMPs in place to protect the watershed from excessive runoff and siltation.
- Raw cement/ concrete or washings thereof, asphalt, paint, oil/other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering any drainages.
- A Storm Water Pollution Prevention Plan (SWPP) and Water Pollution Prevention Plan (WPPP) will be developed and implemented for the project including above items as required during the year. The SWPPP permit will be required from the Regional Water Quality Control Board.
- If any dewatering is deemed necessary a Dewatering Permit and Plan must be developed and implemented for the project. The Dewatering Permit will be required from the Regional Water Quality Control Board. The Dewatering Plan must be submitted to the USFS for review prior to construction.
- Erosion control will be provided on the new slope as stipulated with a combination of hydroseeding and hand planting of the appropriate vegetation consistent with the species being removed. A detailed planting plan will be submitted for approval prior to implementation.
- At the start of each workday before moving mechanical equipment, the construction monitor, contractor, and maintenance personnel shall look under it for animals that may be use the equipment for cover. Additionally, the construction monitor shall survey the rocks on the access path and the river bottom to ensure no animals have moved into the area overnight.
- Maintenance and Construction equipment shall be checked and

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maintained daily by contractor so as to prevent leaks or other potential contamination problems.

- At the end of the day when operations are complete debris or trash shall be removed from the work area and properly disposed of by contractor. All personnel working within the project area will follow all litter and pollution laws.
- Contractor shall apply water or dust palliative to grades areas for the alleviation or prevention of dust nuisance. Daily removal of dirt spilled on to paved roads.
- Construction activities will be limited to daylight hours. Artificial lighting will not be used to illuminate the project site during night hours.

17. Proposed Compensatory Mitigation:

The Applicant has proposed to provide a 3:1 mitigation ratio for permanent impacts associated with this project and a 1:1 ratio for all temporary impacts.

The entire 0.85 acres of riparian habitat needed for restoration on-site could not be obtained within the disturbed footprint of the project. This area is relatively pristine and in order to install willow/mulefat habitat, other existing habitat types would have to be sacrificed to create the required willow/mulefat habitat type. Coast horned lizard is present at this location and utilizes the unvegetated sandy streambanks adjacent to this project. Since only 0.08 acre of riparian habitat can be located on-site, an in-lieu-fee transfer will be made to the United States Forest Service or an approved land conservancy for 0.77 acres of riparian habitat, to fulfill the required mitigation needed. All upland impacts will be mitigated on-site.

18. Required Compensatory Mitigation:

The Regional Board will require a minimum 3:1 compensatory mitigation ratio for all permanent impacts (0.26 acres) associated with the proposed project. In addition, a 1:1 mitigation ratio will be required for any temporary impacts (0.07 acres). Therefore, a total of 0.85 acres of compensatory mitigation will be required.

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Since the total area will not be available for on-site mitigation, the in-lieu fee transfer information shall be provided to the Regional Board prior to beginning any project activities.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

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STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. The Applicant shall not conduct any maintenance activities within waters of the State during a rainfall event, or at any period when site conditions would lead to excessive erosion.
14. If rain is predicted after operations have begun, any activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
15. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
16. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
17. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:
 - pH
 - temperature
 - dissolved oxygen
 - turbidity
 - total suspended solids(TSS)

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- Downstream TSS shall be maintained at ambient levels
- Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

18. The Applicant shall restore the **0.07 acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
19. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.26 acres** of vegetation within waters of the United States by creating or restoring riparian habitat at a minimum **3:1** area replacement ratio (**0.78 acres**). Since enough area is not available on-site for permanent impacts, **0.01 acres** will be mitigated on-site (in addition to the 0.07 temporary acres) and in-lieu funding will be provided for the remaining **0.77 acres**. As an alternative, the Applicant may provide adequate funding to a third party organization for the creation or restoration of a total of 0.77 acres of riparian habitat within waters of the United States.
20. The Applicant proposes funding to a third-party organization for the creation or restoration of a total of **0.77 acres** of (vegetated) streambed riparian habitat within waters of the United States. Funding shall apply to mitigation acreage only, exclusive of administrative costs. The mitigation site shall be located within the (Name of) Watershed unless otherwise approved by this Regional Board. The Applicant shall submit a **Proposed Mitigation Report** which shall include:
 - (a) Documentation from the third party indicating that funds have been used for mitigation acreage only, which do not include administrative costs.

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- (b) The boundary of the mitigation site shall be clearly identified on a map of suitable resolution and quality and shall also be defined by latitude and longitude.
- (c) The type(s) of mitigation shall be described (e.g., removal of exotics and/or replanting with native species, etc.)
- (d) Success criteria shall be established.

This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of all agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

- 21. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
- 22. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
 - (e) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (f) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (g) The overall status of project including a detailed schedule of work;
 - (h) Copies of all permits revised as required in Additional Condition 1;
 - (i) Water quality monitoring results (as required) compiled in an easy to interpret format;
 - (j) A certified Statement of “no net loss” of wetlands associated with this project;
 - (k) Discussion of any monitoring activities and exotic plant control efforts; and
 - (l) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
- 23. Prior to any subsequent maintenance activities within the project area, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this

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28. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. 00-108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
29. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
30. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
31. *Enforcement:*
 - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification

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to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
32. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.